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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,658	12/13/2000	Takashi Yoshitomi	200889US2S	4815

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EXAMINER

PHAM, HOAI V

ART UNIT PAPER NUMBER

2814

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/734,658

Applicant(s)

YOSHITOMI ET AL.

Examiner

Hoai V Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2003.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 10-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-6 is/are rejected.
- 7) ☒ Claim(s) 3 and 7-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 3-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Harris et al. [U.S. Pat. 6,323,044] newly cited.

Harris et al. (fig. 1, cols. 2-3) discloses a MIM capacitor comprising:

first and second electrodes (36, 40) formed from a metal material;

a capacitor insulating film (38);

a first diffusion prevention film (58) interposed between the capacitor insulating film and the first electrode to prevent diffusion of atoms constituting the metal material;  
and

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a second diffusion prevention film (62) interposed between the capacitor insulating film and the second electrode to prevent diffusion of atoms constituting the metal material.

wherein entire interface surfaces between the first diffusion prevention film and the capacitor insulating film and entire interface surfaces between the second diffusion prevention film and the capacitor insulating film are flat (fig.1).

With respect to claims 4-5, Harris et al. discloses that the first and second diffusion prevention films (58 and 62) is TiN (see col. 3, lines 15-16 and lines 18-20).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. [U.S. Pat. 6,323,044] newly cited, as applied to claim 1 above, and further in view of Hayashi [U.S. Pat. 6,266,226] previously applied.

Harris et al. discloses all the limitations as claimed above except a shape of the first and second electrodes is one of shapes including matrix, drainboard, and comb shapes. However, Hayashi shows that the first and second electrodes (11, 12) are comb shapes to increase a capacitance (see fig. 1, cols 4, lines 52-57). Therefore, it would have been an obvious to the skilled in the art to form the comb shape for the first and second electrodes as taught by Hayashi into the device of Alers et al. in order to increase the capacitance of the capacitor.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. [U.S. Pat. 6,323,044] newly cited, in view of Alers et al. [U.S. Pat. 6,320,244] previously applied.

Harris et al. discloses all the limitations as claimed above except the metal material including Cu. However, Alers et al. discloses that the metal electrodes material (34, 50) of the capacitor can be formed of aluminum or Cu (see col. 5, lines 44-46 and col. 6, lines 38-39). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to select Cu as known materials, as taught by Alers et al., into the device of the Harris et al. to form the electrodes of the capacitor since

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such material is a good electromigration resistance and a relatively low electrical resistivity (see col. 2, lines 2-4). Moreover, selection of a known material based on its suitability for its intended use supported a prima facie obviousness determination in *Sinclair & Carroll Co., Inc. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

***Allowable Subject Matter***

8. Claims 3, 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to disclose all the combination of the MIM capacitor device recited in claims 3 and 7, including: the first electrode is filled in a trench in a semiconductor substrate and has a flat surface, the second electrode is filled in a trench in an insulating film on the semiconductor substrate and has a flat surface, an insulating layer having an opening on the first electrode, wherein the first diffusion prevention film is filled in the opening of the insulating layer, and the capacitor insulating film and the second diffusion prevention film are formed on the first diffusion prevention film, wherein ends of the capacitor insulating film and the second diffusion prevention film overlap the insulating layer.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1, 2, and 4-6 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai V Pham whose telephone number is 703-308-6173. The examiner can normally be reached on 7:30A.M. - 6:00P.M..

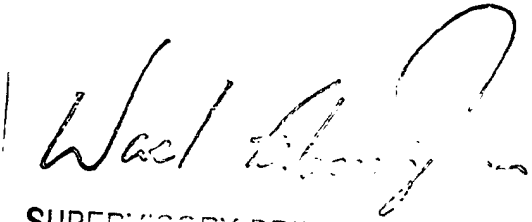
14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M. Fahmy can be reached on 703-308-4918. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

15. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

HP  
Hoai Pham  
July 27, 2003

  
SUPERVISORY PRIMARY EXAMINER  
TECHNOLOGY CENTER 2800